

Case 3:12-cv-00263-LRH-VPC Document 51 Filed 07/01/13 Page 1 of 5

1 CATHERINE CORTEZ MASTO  
2 Attorney General  
3 STEPHEN D. QUINN  
Senior Deputy Attorney General  
3 Nevada Bar No. 5746  
Bureau of Litigation  
4 5420 Kietzke Lane, Suite 202  
Reno, NV 89511  
5 Tel: 775-850-4115  
Fax: 775-688-1822  
6 [squinn@ag.nv.gov](mailto:squinn@ag.nv.gov)

7 *Attorneys for Dwight W. Neven,  
Isidro Baca, Romeo Aranas, MD,  
Jessica Gerke fka Jessica Fowler,  
Gary Graham, Cole Morrow,  
Jerry Howell, Howard Wickham  
Genesa Garcia, Roland Daniels,  
Ronald Oliver, Christopher Vasquez,  
Bryan Sheilds, Francis Kim,  
Beebe Clark, Jacob Murphy,  
Linda Adams, and Jerimiah Melton*

12  
13 UNITED STATES DISTRICT COURT

14 DISTRICT OF NEVADA

15 ) Case No. 3:12-cv-00263-ECR-VPC  
16 BILLY CEPERO, Plaintiff, )  
17 vs. ) MOTION FOR EXTENSION OF TIME TO  
18 ) PLEAD OR OTHERWISE RESPOND TO  
19 ) PLAINTIFF'S SECOND AMENDED  
20 ) COMPLAINT  
21 )  
22 )

HIGHT DESERT STATE PRISON, et al  
Defendants.

23 Defendants Dwight W. Neven, Isidro Baca, Romeo Aranas, MD, Jessica Gerke fka  
24 Jessica Fowler, Gary Graham, Cole Morrow, Jerry Howell, Howard Wickham, Genesa Garcia,  
25 Roland Daniels, Ronald Oliver, Christopher Vasquez, Bryan Sheilds, Francis Kim, Beebe  
26 Clark, Jacob Murphy, Linda Adams, and Jerimiah Melton, by and through undersigned  
27 counsel, respectfully move this Court for an extension of time from July 8, 2013, of sixty (60)  
28 days to and until September 6, 2013, within which newly named defendants for whom the

Case 3:12-cv-00263-LRH-VPC Document 51 Filed 07/01/13 Page 2 of 5

1 Attorney General accepted service to plead or otherwise respond to Plaintiff's Second  
2 Amended Complaint (# 27). This motion is made pursuant to Rule 6(b) of the Federal Rules  
3 of Civil Procedure on the grounds that good cause exists for the requested enlargement. This  
4 motion is based upon the following points and authorities.

5 **PROCEDURAL HISTORY**

6 This is civil rights action brought *pro se* pursuant to 42 U.S.C. § 1983 by an indigent  
7 prisoner *in forma pauperis* who is currently located at Lovelock Correctional Center, but based  
8 upon events that occurred at High Desert State Prison ("HDSP"). In September 2012, the  
9 Court allowed Plaintiff to proceed only on two claims asserted in his July 2012 amended  
10 complaint, filed as Docket Number 8, which claims are: (1) against HDSP corrections staff  
11 and administrators Gerke (fka Fowler), Neven, Baca, and Morrow on a failure to protect claim  
12 based upon allegations that they housed Plaintiff, or allowed Plaintiff to be housed, with other  
13 prisoners who previously threatened him, and who thereafter attacked and injured Plaintiff  
14 (Doc. # 11 – Screening Order at 7:22-24); and (2) against HDSP medical staff Graham and  
15 Aranas on a medical deliberate indifference claim in connection with taking a back brace  
16 away from Plaintiff and disregarding orders for physical therapy (*id.* at 8:1-3).

17 After issuance of an order (Doc. # 20) allowing this case to proceed, on January 16,  
18 2013 Plaintiff filed a motion to amend. Doc. # 24 – Motion to Amend. On February 8, 2013,  
19 the Court granted Plaintiff's motion. Doc. # 26 – Order Granting Leave to Amend. On March  
20 13, 2012, Plaintiff filed a second amended complaint. Doc. # 28 – Second Amended  
21 Complaint. On March 19, 2013, Defendants Dwight W. Neven, Isidro Baca, Romeo Aranas,  
22 MD, Jessica Gerke fka Jessica Fowler, and Gary Graham, filed an answer to Plaintiff's  
23 second amended complaint, which asserted two affirmative defenses: (1) failure to state a  
24 claim; and (2) failure to exhaust administrative remedies. Doc. # 28 – Answer to Second  
25 Amended Complaint at 3.

26 On June 4, 2013 the Court ordered the Attorney General to file an acceptance of  
27 service regarding the newly named defendants in Plaintiff's Second Amended Complaint no  
28 later than June 24, 2013. Doc. # 44. On June 24, 2013 the Attorney General complied with

Case 3:12-cv-00263-LRH-VPC Document 51 Filed 07/01/13 Page 3 of 5

1 said order, notifying the Court of acceptance of service on behalf of thirteen (13) additional  
2 newly named defendants.

3 **DEFENDANTS' MOTION**

4 Defendants calculate that the response of the defendants for whom the Attorney  
5 General accepted service to Plaintiff's Second Amended Complaint is due July 8, 2013.  
6 Defendants are requesting a sixty (60) day extension of time on behalf of the thirteen (13)  
7 defendants newly named for whom the Attorney General accepted service to plead or  
8 otherwise respond to Plaintiff's Second Amended Complaint from July 8, 2013 to and  
9 including September 6, 2013 within which to plead or otherwise respond. In support of this  
10 motion Defendants show the following good cause: (1) counsel needs to notify each  
11 defendant that he must meet the statutory requirement of requesting Attorney General  
12 representation in writing or chose to hire private counsel; and (2) as to each who requests  
13 representation, counsel needs to determine that defendant's knowledge concerning the facts  
14 and circumstances that are the basis of Plaintiff's claims in order to formulate a response to  
15 the Second Amended Complaint.

16 Upon a showing of good cause, requests for extensions of time for a requesting party  
17 to act that are requested before the time for the required act has expired are allowed pursuant  
18 to the Court's exercise of its discretion. Fed. R. Civ. Pro. 6(b)(1); see *Fleischer Studios, Inc.*  
19 v. A.V.E.L.A., Inc., 654 F.3d 958, 966 9th Cir. 2011). On June 24, 2013, pursuant to Court  
20 order (#44), counsel notified the Court (# 47) that the Attorney General accepts service of  
21 process of Plaintiff's Second Amended Complaint (#27) on behalf of thirteen (13) newly  
22 named party-defendants. On July 1, 2013 counsel sent out notices to each said defendant  
23 regarding the need for written request for representation from each, and what information  
24 each has as to the events and circumstances that are the basis of the claims asserted in  
25 Plaintiff's Second Amended Complaint. Good cause exists to grant the requested extension.

26 **CONCLUSION**

27 Based on the foregoing, Defendants respectfully request that an extension of time be  
28 granted within which newly named defendants for whom the Attorney General accepted

Case 3:12-cv-00263-LRH-VPC Document 51 Filed 07/01/13 Page 4 of 5

1 service to plead or otherwise respond to Plaintiff's Second Amended Complaint to and  
2 including September 6, 2013.

3 Dated this 1st day of July, 2013.  
4

5 CATHERINE CORTEZ MASTO  
6 Attorney General  
7

8 By /s/ Stephen D. Quinn  
9 STEPHEN D. QUINN  
10 Senior Deputy Attorney General  
11 Bureau of Litigation  
12 Attorneys for Defendants  
13 Dwight W. Neven,  
14 Isidro Baca, Romeo Aranas, MD,  
15 Jessica Gerke fka Jessica Fowler,  
16 Gary Graham, Cole Morrow,  
17 Jerry Howell, Howard Wickham  
18 Genesa Garcia, Roland Daniels,  
19 Ronald Oliver, Christopher Vasquez,  
20 Bryan Sheilds, Francis Kim,  
21 Beebe Clark, Jacob Murphy,  
22 Linda Adams, and Jerimiah Melton

23  
24 IT IS SO ORDERED  
25  
26 U.S. MAGISTRATE JUDGE  
27  
28

DATED: July 2, 2013

Case 3:12-cv-00263-LRH-VPC Document 51 Filed 07/01/13 Page 5 of 5

## **CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2013, I electronically filed the foregoing **MOTION FOR EXTENSION OF TIME TO PLEAD OR OTHERWISE RESPOND TO SECOND AMENDED COMPLAINT** with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system:

BILLY CEPERO #94730  
CARE OF NNCC LAW LIBRARIAN  
NORTHERN NEVADA CORRECTIONAL CENTER  
PO BOX 7000  
CARSON CITY, NV 89702  
[lawlibrary@doc.nv.gov](mailto:lawlibrary@doc.nv.gov)

/s/ Elizabeth A. Avram  
Elizabeth A. Avram